

1-1-1980

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Recommended Citation

Robert E. Norris, *Bringing Human Rights Petitions before the Inter-American Commission Symposium International Human Rights*, 20 SANTA CLARA L. REV. 733 (1980).

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BRINGING HUMAN RIGHTS PETITIONS BEFORE THE INTER-AMERICAN COMMISSION

Robert E. Norris*

INTRODUCTION

The Inter-American system for the presentation and consideration of complaints of human rights violations is currently in a period of transition due to entry into force of the American Convention on Human Rights on July 18, 1978.¹ The American Convention, which has been ratified by fifteen of the twenty-seven member states of the Organization of American States (OAS),² provides for the reorganization of the Inter-American Commission on Human Rights³ and the

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The views expressed in this study do not necessarily reflect those of the Inter-American Commission on Human Rights, its Secretariat, or of the General Secretariat of the Organization of American States.

1. AMERICAN CONVENTION ON HUMAN RIGHTS, July 18, 1978, *reprinted in* INTER-AMERICAN COMMISSION ON HUMAN RIGHTS, ORGANIZATION OF AMERICAN STATES, HANDBOOK OF EXISTING RULES PERTAINING TO HUMAN RIGHTS 48-74 (OEA/Ser. L/V/11.23, doc.21, rev. 6, 1979) [hereinafter cited as HANDBOOK]. See also Appendix II *infra*.

2. See Appendices I and II *infra*.

3. The Inter-American Commission on Human Rights (Inter-American Commission or IACHR) is an organ of the Organization of American States (OAS), as provided in article 51(e) of the OAS Charter and is structured in accordance with articles 43-51 American Convention. HANDBOOK, *supra* note 1, at 58-62.

For further information on the history, competence and activities of the Inter-American Commission, see K. VASAK, LA COMMISSION INTERAMERICAINE DES DROITS DE L'HOMME (1968); A. SCHREIBER, THE INTER-AMERICAN COMMISSION ON HUMAN RIGHTS (1970); L. LEBLANC, THE OAS AND THE PROMOTION AND PROTECTION OF HUMAN RIGHTS (1977); Sandifer, *Human Rights in the Inter-American System*, 11 HOWARD L.J. 508 (1965); Thomas & Thomas, *The Inter-American Commission on Human Rights*, 20 SW. L.J. 282 (1966); Thomas & Thomas, *Human Rights and the Organization of American States*, 12 SANTA CLARA LAWYER 319 (1972); Fox, *Protection of Human Rights Through the Inter-American System*, 44 VA. Q. REV. 369 (1968); Fox, *The Protection of Human Rights in the Americas*, 7 COLUM. J. TRANSNAT'L L. 222 (1968); Fournier, *The Inter-American Human Rights System*, 121 DE PAUL L. REV. 376 (1971); Cabranes, *The Protection of Human Rights by the Organization of American*

establishment of an Inter-American Court of Human Rights.⁴ The members of those bodies were elected by a Special General Assembly of the OAS on May 22, 1979, and their respective statutes were approved at the Ninth Regular General Assembly in La Paz on October 22-31, 1979.

The new statute of the Inter-American Commission⁵ modifies the existing petition system⁶ by establishing distinct procedures for the examination of complaints against states parties and non-parties to the American Convention. These procedures were further defined and implemented in the new regulations, which were adopted in April of 1980.⁷

Under the new statute and regulations, the Commission now has two procedures which are best distinguished by reference to the respective articles of the statute under which they arise:

1) the article 19(a)⁸ procedure, which is applicable only to states parties to the American Convention, pursuant to ar-

States, 62 AM. J. INT'L L. 889 (1968); R. GOLDMAN, *THE PROTECTION OF HUMAN RIGHTS IN THE AMERICAS: PAST, PRESENT, AND FUTURE* (5 New York University Center for International Studies, Policy Paper No. 2, 1972).

4. The Inter-American Court of Human Rights (Inter-American Court) is structured in accordance with articles 52-73 of the American Convention. *HANDBOOK*, *supra* note 1, at 63-67.

5. The Statute of the Inter-American Commission on Human Rights (OEA/Ser. P. AG/doc. 1180, October 30, 1979) [hereinafter cited as New IACHR Statute] is reproduced in Appendix V *infra*. The New IACHR Statute is not yet available in major libraries but may be obtained by writing to the Inter-American Commission on Human Rights, 19th and Constitution Ave. N.W., Washington, D.C. 20006.

The former Statute of the Inter-American Commission on Human Rights (OEA/Ser. L/V/11.26, doc. 10, November 2, 1971) is reprinted in *HANDBOOK*, *supra* note 1, at 24-40.

6. Several recent studies of the Inter-American Commission's procedure for the examination of petitions, published before the approval of the new Statute, are the following: Leblanc, *The Inter-American Commission on Human Rights*, 9 HUMAN RIGHTS J. 645, 645-55 (1976); Farer & Rowles, *The Inter-American Commission on Human Rights*, in HUMAN RIGHTS LAW AND PRACTICE 47-82 (J. Tuttle ed. 1978); Tardu, *Procedures of Regional Organizations: The Inter-American System*, in HUMAN RIGHTS: THE INTERNATIONAL PETITION SYSTEM 1 (1979).

7. The Regulations of the Inter-American Commission on Human Rights (OEA/Ser. L/V/11.49, doc. 6, rev. 4, April 8, 1980) [hereinafter cited as New IACHR Regs.] are reproduced in part in Appendix VI *infra*. The New IACHR Regulations are not yet available in major libraries. An English translation of the Regulations can be obtained by writing to the Inter-American Commission. *See* note 5 *supra*.

The former Regulations of the Inter-American Commission on Human Rights (OEA/Ser. L/V/11.17, doc. 26, May 2, 1967) (hereinafter Old IACHR Regs.) are reprinted in *HANDBOOK*, *supra* note 1, at 30-40.

8. New IACHR Statute, *supra* note 5, at 6; *see* Appendix V *infra*.

ticles 44-51 of the Convention;⁹ and,

2) the article 20¹⁰ procedure which applies only to non-party states.

The purpose of this article is to provide some guidelines and suggestions which will enable the petitioner to present and prosecute an individual case before the Inter-American Commission under the new statute and regulations.

THE PRELIMINARY QUESTIONS

How to Select the Appropriate Procedure

In determining which procedure is appropriate under the new system, the petitioner must first ascertain whether the state accused of the violation is a party to the American Convention on Human Rights.¹¹ If so, the complaint must be submitted under article 19(a) of the new statute, subject to the provisions of articles 23-47 of the new regulations.¹² If the OAS member state is not a party to the Convention, the complaint should be submitted under article 20 of the statute and articles 48-50 of the new regulations.¹³ Complaints against member states of the OAS which are not parties to the American Convention must be based on a violation of rights contained in the American Declaration of the Rights and Duties of Man (American Declaration).¹⁴

Which Rights Are Protected?

Which rights are protected depends first upon whether the American Convention or the American Declaration is the document of reference. If the OAS member state allegedly responsible for the violation is a party to the American Convention, the applicable rights are set forth in articles 3-25 of the Convention.¹⁵ These rights are protected by the procedure

9. HANDBOOK, *supra* note 1, at 60-62.

10. New IACHR Statute, *supra* note 5, at 7; see Appendix V *infra*.

11. See Appendix II *infra*, for a list of states parties.

12. New IACHR Regs., *supra* note 7, at 8-16; see Appendix VI *infra*.

13. *Id.* at 16; see Appendix VI *infra*.

14. AMERICAN DECLARATION OF THE RIGHTS AND DUTIES OF MAN (Adopted by the Ninth International Conference of American States, Bogota, 1948) reprinted in HANDBOOK, *supra* note 1, at 18-23. See Appendix III *infra*.

15. HANDBOOK, *supra* note 1, at 49-56. See Appendix IV *infra*, for a list of rights protected under the American Convention.

outlined in articles 44-51 of the Convention¹⁶ which are incorporated into the new statute by article 19(a) and further defined in the new regulations. The Convention recognizes, however, that "The rights of each person are limited by the rights of others, by the security of all, and by the just demands of the general welfare, in a democratic society."¹⁷

A state party to the American Convention may derogate from certain of its obligations under the Convention in time of war, public danger, or other emergency that threatens its independence or security. Such derogations must last for a limited time only, must not be discriminatory, and must be consistent with the state's other obligations under international law.¹⁸ Some fundamental rights, such as the right to humane treatment, may not be suspended even in an emergency.¹⁹

If the state accused of the violation is not a party to the Convention, the rights protected are those enumerated in the American Declaration of the Rights and Duties of Man. Like the American Convention, the American Declaration restricts the scope of the protected rights: "The rights of man are limited by the rights of others, by the security of all, and by the just demands of the general welfare and the advancement of democracy."²⁰ Further limitations on the protected rights are created by the duties established in chapter two of the Declaration: one has a duty toward society, toward children and parents, to receive instruction, to vote and to obey the law, to serve the community and the nation, to pay taxes, to work, and to refrain from political activities in a foreign country. One has additional duties with respect to social security and welfare.²¹

16. HANDBOOK, *supra* note 1, at 60-62.

17. Article 32(2), *id.* at 57.

18. Article 27(1), *id.* at 56.

19. The foregoing provision [Article 27(1)] does not authorize any suspension of the following articles: Article 3 (Right to Juridical Personality), Article 4 (Right to Life), Article 5 (Right to Humane Treatment), Article 6 (Freedom from Slavery), Article 9 (Freedom from *Ex Post Facto* Laws), Article 12 (Freedom of Conscience and Religion), Article 17 (Rights of the Family), Article 18 (Right to a Name), Article 19 (Rights of the Child), Article 20 (Right to Nationality), and Article 23 (Right to Participate in Government), or of the judicial guarantees essential for the protection of such rights.

Article 27(2), *id.*

20. Article XXVIII of the HANDBOOK, *supra* note 1, at 21.

21. Articles XXIX-XXXVIII, *id.* at 22-23.

The Inter-American Commission does not recognize the suspension of certain fundamental rights contained in the American Declaration. In an early resolution directed to the problem, the Commission refused under any circumstances to recognize the derogation of the right to life, liberty, and integrity of the person, the right to protection against arbitrary arrest, the right to due process, and the right to freedom of thought, conscience and religion. In the same document, the Commission declared that even a state of siege is "compatible with the system of representative democratic government" only when officially decreed under a constitutionally established procedure and limited to the requirements of the situation.²² In addition, the state of siege may not be discriminatory or cause a restriction of the rule of law.²³

In the absence of any decisions to the contrary, this resolution presumably continues to represent the Commission's position regarding the member states that have not yet ratified the American Convention. It can be expected, however, that the Commission will look to the American Convention for guidance when interpreting the American Declaration. In 1974, for example, the Commission looked to article 27 of the Convention when assessing the compatibility of the American Declaration with a state of siege in Chile. Although the Convention was not yet in force, the Commission affirmed that:

With respect to American International law—which is the normative system that the Commission must take primarily into account—it must be understood that, in the absence of conventional standards in force in this area, the 'most accepted doctrine' is that which is set forth in the American Convention on Human Rights²⁴

Now that the American Convention has entered into force it is even more likely that the Commission will rely on the Convention's standards as a measuring stick for assessing suspensions of rights in non-party states.

The precedent established in the Chilean case regarding the use of the American Convention in the definition of the

22. IACHR, Report on the Work Accomplished During Its Eighteenth Session 44-46 (OEA/Ser. L/V/11.19, doc. 30, 1968).

23. *Id.*

24. IACHR, Report on the Status of Human Rights in Chile (OEA/Ser. L/V/11.34, doc. 21, corr. 1, October 25, 1974).

human rights enunciated in the American Declaration is particularly important because the rights set out in the Declaration are not well defined. The petitioner should look to the corresponding rights set forth in the American Convention in cases where a more complete definition is needed. The right to a fair trial, for example, is stated in two short sentences in article XVII of the American Declaration, while under article 8 of the American Convention it is treated in considerable detail.

Who May Bring a Complaint Before the IACHR?

Any person or group of persons may bring a complaint before the Commission.²⁵ There are no restrictions with regard to standing, nationality, citizenship or age. In fact, the person filing the complaint need not be the person whose rights have been violated. He may be a spouse, relative, friend, or even a person unknown to the aggrieved party. Neither the complainant nor the victim is required to be a national or a resident of a member state of the OAS, or of the state against which the complaint is registered. Complaints may be submitted, for example, by European nationals for the redress of violations of the human rights of European tourists. Citizens of European states may also bring complaints in behalf of a national of a member state. Even minors may avail themselves of the petition procedure.

In practice, numerous complaints are filed on behalf of individuals by local or international human rights organizations, labor unions, and professional associations. Under the previous regulations, complaints could be lodged by associations that were legally established with no restrictions as to where the association was located.²⁶ Many European associations submitted complaints on the behalf of victims who were members of similar associations in the Americas.

Under the new regulations, however, only a nongovernmental entity that is "legally recognized in one or more of the member states of the Organization" may bring a complaint against a state party to the Convention.²⁷ This requirement

25. Article 23, New IACHR Regs., *supra* note 7, at 8; see Appendix VI *infra*.

26. Article 53(a) of the Old IACHR Regs. reprinted in HANDBOOK, *supra* note 1, at 37-38.

27. Article 23, New IACHR Regs., *supra* note 7, at 8; see Appendix VI *infra*.

poses no real barrier. Regardless of whether it has legal recognition, an entity from a member state, or even one from a state which is not a member of the OAS, could file a complaint by having one or more of its representatives or members sign as an individual or as a group of persons.

PREPARING THE PETITION OR COMPLAINT

A complaint need not be prepared by a lawyer and does not require any special forms, paper, or stamps. So long as it contains all the necessary elements, a simple letter is sufficient. Even if an element is missing, the Secretariat of the Commission can advise the complainant, who will then have an opportunity to supply the needed information or remedy any defect.²⁸ A lawyer's assistance may be important, however, in arguing for the admissibility of a petition which does not clearly meet the requirements of, for example, timeliness or exhaustion of domestic remedies. His ability to interpret the law, construct legal arguments and gather relevant evidence may be crucial to the success of the petition, and his guidance may be needed for a case in which the complainant contemplates a friendly settlement or eventual presentation of the case to the Inter-American Court of Human Rights. Consequently, the petitioner may wish to appoint an attorney or other qualified person to represent him before the Commission.

In preparing a complaint, one must keep in mind the different requirements of the two procedures. However, there are some elements common to every complaint: the proper identification of the complainant, a statement as to which rights are violated, a declaration implicating the government of a member state, an indication of which procedure the complainant has chosen, and a statement of the facts upon which the complaint is based. Evidence of timeliness, the exhaustion of domestic remedies, and a statement that the matter is not pending settlement in another international organization should be included. There are other elements which may be considered optional: a request for an on-the-spot investigation, an invocation of the conciliation procedure, or a request that the government supply specific documents or information. If it is nec-

28. Article 27(2), New IACHR Regs., *supra* note 7, at 9; see Appendix VI *infra*.

essary to avoid irreparable damage, a petitioner may plea for precautionary measures. In cases involving the conciliation procedure or the presentation of a case to the Inter-American Court, the petitioner may have to authorize the Commission to identify the complainant to the government in question.

Identification of the Complainant

The complaint should contain the name, nationality, profession or occupation, address and signature of the person or persons making the denunciation.²⁹

There are no current requirements that a complainant present proof of his identity in order to bring a complaint before the Commission. The requirements of the Inter-American Court, however, are likely to be more strict. If the objective is to have the case presented to the court through the Commission, the complainant might consider accompanying the petition with a statement of a notary public or other authorized public official which indicates that the author of the complaint has properly identified himself. In cases to be brought before the Inter-American Court or in formal hearing before the Commission, the representative of a petitioner may be required to present a notarized power of attorney.

Nature of the Complaint

The first paragraph of the complaint should identify the parties and state the nature of the complaint. It should include the name of the victim, the member state charged with the violation, the procedure under which the complaint is being submitted, and the rights allegedly violated. There is no official format, but the first paragraph might be structured as follows:

This petition, which contains a denunciation of the violation of the human rights of _____ (victim's name) by the government of _____ (name of member state), is submitted under Article _____ [19(a) or 20] of the Statute of the Inter-American Commission on Human Rights. The rights allegedly violated by that government are those set forth in Articles _____ of the _____ (American Declaration of Rights and Duties of Man or

29. Article 29(a), New IACHR Regs., *supra* note 7, at 9-10; see Appendix VI *infra*.

American Convention on Human Rights).

Statement of Facts

The statement of facts should be written in the third person and should contain a detailed description of the act or situation denounced, the place and date of the alleged violation, and the name or other information sufficient to permit the identification of the victim and of any government official allegedly responsible for the violation.³⁰ It should be noted that, under some circumstances, the failure of a government to act would constitute a violation.

If the facts as alleged do not clearly implicate the government, the complaint should include a declaration to the effect that the government is believed to be responsible and should state the reasons for that belief.³¹

Statements by eye-witnesses, experts, or persons with special knowledge of the case may be attached to the complaint. Witnesses should be identified in the same manner as the petitioner, and if the case is one which might be presented to the court, their statements should be made before a notary or other public official.

Statement of Timeliness

There are time limits for the presentation of complaints. Petitions should be lodged within six months from the date on which the injured party was notified of a final ruling which exhausts any remedies available under domestic law.³² If the domestic legislation of the state does not afford due process of law for the protection of the right involved, the complainant has been denied access to remedies, or prevented from exhausting them, or has been unable to obtain a final decision because of unwarranted delay, the petition must be addressed to the Commission within a "reasonable" period of time from the date of the occurrence of the alleged violation.³³ What is

30. Article 29(b), New IACHR Regs., *supra* note 7, at 10; see Appendix VI *infra*.

31. Article 29(e), New IACHR Regs., *supra* note 7, at 10; see Appendix VI *infra*.

32. Article 35(1), New IACHR Regs., *supra* note 7, at 12; see Appendix VI *infra*.

33. Article 35(2), New IACHR Regs., *supra* note 7, at 12; see Appendix VI *infra*.

considered a reasonable period of time may vary according to the circumstances of the case; under the previous system, however, the Commission generally considered as timely any complaint filed within two years of the date of the alleged violation.

Statement of Exhaustion of Domestic Remedies

Petitions should contain information or a statement to the effect that the remedies available under domestic law have been pursued and exhausted in accordance with generally recognized principles of international law and, if possible, documentary proof of any final decision by a court of law or other competent authorities.³⁴

Three of the generally recognized principles of international law which relieve a complainant of the exhaustion requirement are set forth in the American Convention and are incorporated into the new regulations. The exhaustion of domestic remedies cannot be required when domestic legislation does not afford due process of law for the protection of the right in question, when the party has been denied access to the remedies or has been prevented from exhausting them, or when there has been an unwarranted delay in rendering a final judgment under those remedies.³⁵ In addition, the assertion that the petitioner is unable to prove the exhaustion of domestic remedies will shift to the respondent government the burden of proving that domestic remedies have not been exhausted.³⁶ Other circumstances which will likely relieve the complainant of the exhaustion requirement are a consistent pattern of governmental interference with due process of law, the absence of an independent judiciary, or a consistent pattern of gross violations of any of the fundamental human rights protected by the American Convention or the American Declaration.

34. Article 34, New IACHR Regs., *supra* note 7, at 11-12; see Appendix VI *infra*.

35. Compare Article 46(2)(a)-(e) of the American Convention, reprinted in HANDBOOK, *supra* note 1, at 60-61 with Article 34(2)(a)-(e), New IACHR Regs., *supra* note 7, at 12; see Appendix VI *infra*.

36. Article 34(3), New IACHR Regs., *supra* note 7, at 12; see Appendix VI *infra*. For a helpful discussion on proof of exhaustion of domestic remedies, see Trindade, *The Burden of Proof With Regard to Exhaustion of Local Remedies in International Law*, 9 HUMAN RIGHTS J. 81 (1976).

Statement of No Pending Settlement and Not Substantially the Same

The petition should also contain a statement that the case is not pending settlement in another intergovernmental proceeding and does not "essentially duplicate" a complaint previously studied by another intergovernmental organization.³⁷ The purpose of this requirement is to avoid duplication of effort and inconsistency of results when the same case is submitted to two or more intergovernmental procedures.³⁸

"Pending settlement" has not yet been interpreted by the Commission, but it is likely, in view of the objective of this requirement, that a matter will be considered to be "pending settlement" as soon as it has been accepted for processing under another intergovernmental procedure that could lead either to settlement or to a final decision. It is important to note, however, that not all intergovernmental procedures for the study of human rights complaints lead to settlement or a final decision. A petition would not be rejected because of a conflict in competence if it was submitted under a procedure like that established by resolution 1503 of the United Nations Economic and Social Council for the study of "situations which appear to reveal a consistent pattern of gross and reliably attested violations of human rights" and which does not lead to a final decision on an individual case. On the other hand, an individual petition submitted to the Human Rights Committee for consideration under the Optional Protocol of the International Covenant on Civil and Political Rights would not be admitted by the Inter-American Commission, since the Committee does have the power to reach a final decision in an individual case. The Inter-American Commission, however, will not necessarily reject a petition submitted by the victim himself or a family member if the petition already under the other procedure was brought by a third party with no family relationship and without the mandate of the victim.³⁹

37. Article 36(1)(b), New IACHR Regs., *supra* note 7, at 12; see Appendix VI *infra*.

38. See generally Tardu, *The Protocol to the United Nations Covenant on Civil and Political Rights and the Inter-American System: A Study of Co-Existing Petition Procedures*, 70 AM. J. INT'L L. 778 (1976).

39. Article 36(2)(b), New IACHR Regs., *supra* note 7, at 13; see Appendix VI *infra*.

When does a petition "essentially duplicate" one previously submitted? For the time being, one might look for guidance to the jurisprudence of the European Commission in regard to article 27(1)(b) of the European Convention which requires that a petition not be "substantially the same" as a matter previously studied. A petition is not substantially the same, nor would it duplicate a prior petition, if it contains "relevant new material" which would affect either the substance of previous allegations made by the complainant or the ground on which the previous application was rejected.⁴⁰

Once again, though we have no interpretation on which to rely, the phrase "already examined and settled" in the light of the purpose of the requirement, should be taken to mean a petition upon which a final decision was reached, and not one which was initially received and later rejected as inadmissible or withdrawn without a decision on the merits.

Proposal for a Friendly Settlement

A friendly settlement procedure is specially provided for in the case of petitions submitted under the American Convention.⁴¹ Once the Commission has had the opportunity to study the government's reply to the pertinent parts of the complaint, it may place itself at the disposal of the parties for the purpose of seeking a friendly settlement.⁴² The complainant need not await the Commission's decision, however. If he is interested in a friendly settlement, he should request the

40. For further discussion, see F. JACOBS, *THE EUROPEAN CONVENTION ON HUMAN RIGHTS* 249-51 (1975).

41. Articles 48(1)(f) & 49, *HANDBOOK*, *supra* note 1, at 62. For a description of how the friendly settlement procedure works under the European Convention on Human Rights, see Raymond, *Comment s'exerce la fonction de conciliation de la Commission europeenne des Droits de l'Homme*, 2 *HUMAN RIGHTS J.* 259-266 (1969). Article 42, *New IACHR Regs.*, *supra* note 7, at 14; see Appendix VI *infra*.

42. Prior to issuance of the New IACHR Regulations one observer suggested that the language of article 48(1)(f) of the American Convention required the Commission to attempt a friendly settlement as part of the petition process. Jimenez, *La Comision Interamericana de Derechos Humanos* (Feb. 1969) (paper presented at the Regional Seminar on the American Convention on Human Rights, San Jose, Costa Rica, February, 1969, pp. 12-13). Article 48(1)(f) provides in part, "The Commission shall place itself at the disposal of the parties concerned with a view to reaching a friendly settlement . . ." *HANDBOOK*, *supra* note 1, at 62. The New IACHR Regulations, however, do not require an attempt at friendly settlement in every case. The Commission is required to attempt friendly settlement only when requested to do so by one of the parties or upon its own initiative. Article 42(1), *New IACHR Regs.*, *supra* note 7, at 14; see Appendix VI *infra*.

Commission's good offices in the original complaint and suggest the bases upon which a settlement would be acceptable. The bases of the settlement might include compensation, as well as vindication of the right involved.

For a settlement to be consummated under the auspices of the Commission, the Commission itself must be satisfied that the agreement is based upon the respect of the human rights defined in the Convention.⁴³ One question it must ask is whether the general interest is protected by the terms of the settlement. The payment of compensation to a claimant, for example, may not be sufficient where the government does not agree to modify legislation or an administrative practice which, on its face, is violative of the Convention.

If the complainant has reached a settlement with the government and requests that his case be withdrawn, the Commission is not obligated to withdraw the case, but may continue to examine it for the purpose of a report and recommendations or submission to the court. This does not impede the complainant from accepting the government's offer, of course, but the government may be less willing to settle if the matter is going to continue before the Commission or the court.

Friendly settlements are not specifically provided for in the case of member states that are not parties to the Convention but the advisability of establishing such a procedure for non-party states is a question that will soon arise once the Commission gains some experience with friendly settlements under the Convention. In the past the Commission has occasionally sought a friendly settlement on an informal basis and there is nothing in the new statute or regulations that would prevent the Commission from continuing such attempts. Consequently, a petitioner with a case that would be appropriate for friendly settlement should not hesitate to request that the Commission consider that possibility even in the case of a non-party state.

Proposal for an On-the-Spot Investigation

If there is reason to believe that an on-the-spot investigation would produce relevant information that could be ob-

43. Article 42(1), *id.* For an interpretation of the same language found in Article 28(b) of the European Convention, see JACOBS, *supra* note 40, at 254-55.

tained in no other way, the complainant should request an on-site investigation in his original complaint, indicating exactly what information would be available and what relevance it would have. The Inter-American Commission, in the case of states parties to the American Convention, may request the necessary facilities to carry out an on-the-spot investigation under article 48(d) of the Convention, once the government reply has been received and studied.⁴⁴ In serious and urgent cases, however, and with the consent of the state concerned, the Commission may carry out an investigation even before the government has answered the allegations.⁴⁵ Likewise, the Commission may request consent to conduct such an investigation in the territory of any of the states which are not parties to the Convention under the authority of article 18(g) of the new statute.⁴⁶

However, the staff of the Commission is small, and its funds are limited. There is a greater chance that the case might be investigated on-the-spot as a part of a general on-site visit for the purpose of preparing a report on the situation of human rights in a particular country. In addition, there is a possibility of presenting witnesses in an individual case should the Commission decide to hold one of its sessions in the country in question.⁴⁷ The advantage of requesting an on-site investigation early in the proceedings and supplying the background information is to assure that the Commission will be prepared should it decide to carry out a general observation *in loco* or to hold a session in that country. The number and seriousness of such complaints with regard to a given country is instrumental in the Commission's decision to conduct a general investigation.⁴⁸

44. Article 41(1), New IACHR Regs., *supra* note 7, at 14; *see* Appendix VI *infra*.

45. Article 41(2), New IACHR Regs., *supra* note 7, at 14; *see* Appendix VI *infra*.

46. Article 18(g), New IACHR Statute, *supra* note 5, at 6; *see* Appendix V *infra*.

47. Article 61, New IACHR Regs., *supra* note 7, at 20; *see* Appendix VI *infra*.

48. For further discussion on the factors in the Inter-American Commission's decision to conduct an on-site investigation, *see* Norris, *Observations "In Loco": Practice and Procedure of the Inter-American Commission on Human Rights*, 15 TEXAS INT'L L.J. 601 (1979).

Request for a Hearing

The complainant may request the opportunity to make an oral presentation to the Commission or to its delegates. Such a request should be in writing and may be made at any time. One should inquire when and where the next session of the Inter-American Commission will be held, state why a hearing would be useful, and indicate the nature of the information to be presented. The Commission meets three times a year. Ordinarily, it holds its sessions at its seat in Washington, D.C., but occasionally it will meet in another member state.

Hearings will normally be held in private and may be adversarial in nature.⁴⁹ The complainant, his representative, or any witnesses may make a presentation and respond to any questions from the members of the Commission. The formal presentation should be presented in writing, and any participants may be requested to identify themselves.

Under the present statute and regulations, the Commission has no obligation to grant a request for an oral presentation in cases brought against non-party states. However, it may have an obligation to do so in the case of petitions brought against states parties to the American Convention. Article 48(1)(e) of the Convention states that the Inter-American Commission, "if so requested, shall hear oral statements or receive written statements from the parties concerned."⁵⁰ This clause has been interpreted to allow the Commission maximum flexibility, for it would be physically incapable of permitting oral presentations in all cases. Nevertheless, because of the great volume of cases received by the Commission, making an oral presentation is sometimes more effective than relying entirely on a written process.

At the same time, the complainant should not underestimate the importance of establishing contact with the staff attorney who is in charge of processing the case. The staff attorney, in effect, makes the preliminary decision on admissibility, decides what information should be requested when the case is ready for presentation to the Commission, and prepares the draft report or resolution which contains the conclusions and recommendations.

49. Article 63, New IACHR Regs., *supra* note 7, at 21; see Appendix VI *infra*.

50. Article 48(1)(e), HANDBOOK, *supra* note 1, at 62. See also Article 61, New IACHR Regs., *supra* note 7, at 20; see Appendix VI *infra*.

Interrogatories and Requests for Documentation

The original complaint might be accompanied by suggestions with regard to the type of information the Commission should request of the government upon transmittal of the pertinent parts of the complaint. The suggestions could take the form of questions based upon the statement of facts or of requests for copies of laws, court or police records, or other types of documentation. The Commission may adopt those questions or requests as its own, but it is not obligated to forward them to the government.

Consent to Reveal the Identity of the Complainant

It is the policy of the Commission to withhold the name or any other information which might divulge the identity of the complainant.⁵¹ This is why the complaint should be submitted in the third person. However, there may be some cases in which the complainant feels that it is important that he be identified to the government as the author of the complaint. If so, he should state his reason, making it clear that the Commission has his consent to reveal his identity to the government.

Urgent Communications and Precautionary Measures

When there is strong reason to believe that a person is being tortured, is imprisoned and needs urgent medical attention, or is otherwise in imminent danger of bodily harm, the pertinent details should be sent to the Commission by cablegram, which should contain the complainant's return address and phone number, if any. If the Commission decides that the allegations warrant immediate action, it may forward the complaint by cablegram to the government concerned with a request that the Commission be informed as soon as possible with regard to the veracity of the complaint or the measures taken. Similarly, when it is necessary to avoid irreparable damage or harm, the Commission may request the government to take provisional measures while fact-finding continues.⁵²

51. Article 31(4), New IACHR Regs., *supra* note 7, at 11; see Appendix VI *infra*.

52. Article 26(2), New IACHR Regs., *supra* note 7, at 9; see Appendix VI *infra*.

EFFECTIVE PARTICIPATION IN FACT-FINDING AND RESOLUTION

Transmittal of the Pertinent Parts

Complaints are studied by a staff attorney who makes a preliminary determination whether they are admissible and whether any supplementary information will be needed. If admissible, he initiates the fact-finding procedure, noting the basic information in a special register, opening a case file, and giving it a case number for identification. He then prepares a summary of the pertinent parts of the allegation and edits the material in order to protect the identity of the petitioner. This summary is transmitted to the respondent government under cover of a note, in which the government is asked to provide any relevant information with regard to the allegations or the exhaustion of remedies. At the same time the attorney may provide copies of any documentation relevant to the case or may request that the government respond to specific questions.

The complainant can expedite handling of the case by providing a summary of the important facts of the case, written in the third person, and by making specific suggestions as to what questions should be asked of the government and what documentation should be requested.

When the note is sent to the government, the Commission acknowledges receipt of the complaint, informs the complainant of the date of the note and the number assigned to the case, and may request that supplementary information be supplied. The complainant is expected to keep the Commission abreast of any new developments in the case.

Reply and Rejoinder

The pertinent parts of the government's reply are sent to the complainant for his observations which should be presented within thirty days.⁵³ He should study the reply carefully, submit any information or documentation which might serve as a rebuttal, and pose any questions relevant to the veracity or completeness of the government's response. The attorney may wish to suggest that the Commission request the government to substantiate certain submissions or

53. Article 31(7), New IACHR Regs., *supra* note 7, at 11; see Appendix VI *infra*.

to supply a copy of certain documents. He should note any of the principal allegations to which the government did not respond because the government's failure to reply to any one of the allegations may result in a presumption of truth of that allegation.⁵⁴ Likewise, the complainant's failure to respond to the government's reply within a reasonable time may lead the Commission to presume that the answer was satisfactory, in which case processing would be suspended.

The new regulations allow the government 120 days from the date of the Commission's request to submit its observations or other information.⁵⁵ The Commission, however, may grant an extension if the respondent government so requests and shows justifiable cause.⁵⁶ If a substantive response is not received within 180 days from the date on which the complaint was first sent to the government, the Commission may find the allegations to be true under the presumption established in article 39 of the new regulations.⁵⁷ The complainant should request that the article 39 presumption be applied if he has not received a response within four months.

The complainant's rebuttal or comments are forwarded to the government, and this exchange of information may continue until the staff attorney is satisfied that the complaint is admissible and that there is sufficient evidence or information upon which to base an opinion. As previously noted, some information may have been gathered through on-site investigation or received in the course of a hearing. At this point, the staff attorney prepares a draft report or draft resolution for the Commission's study and adoption.

Reports and Resolutions

Resolutions taken by the Inter-American Commission with regard to individual petitions brought against non-party states are transmitted simultaneously to the petitioner and to the respective government. According to current practice, the resolution will contain a summary of the pertinent submis-

54. Article 39, New IACHR Regs., *supra* note 7, at 13; see Appendix VI *infra*.

55. Article 31(5), New IACHR Regs., *supra* note 7, at 11; see Appendix VI *infra*.

56. Article 31(6), *id.* In no case will extensions be granted that would permit a government to respond more than 180 days after the first communication was sent to it.

57. New IACHR Regs., *supra* note 7, at 13; see Appendix VI *infra*.

sions and a finding whether a violation was committed. If a violation is found, the Commission will include its recommendation to the government and request that the government inform the Commission within a certain time period what action has been taken.⁵⁸

The resolution may be published as a separate document, utilized as a basis for a recommendation, a report or study of a broader nature, or included in the Annual Report to the General Assembly.⁵⁹ However, if the government complies with the recommendation within the time limit, the Commission may decide not to publish the resolution in its Annual Report. If the government has not complied, the complainant should inform the Commission and request that the resolution be made a part of the annual report.

The reporting procedure for petitions against states parties to the American Convention is governed by articles 43-45 of the new regulations.⁶⁰ If a friendly settlement has been attempted and has failed, the report required under article 50 of the Convention is to be drawn up within 180 days of the completion of the fact-finding⁶¹ and transmitted to the party concerned, along with whatever proposals and recommendations the Commission may wish to make. After the report is filed, either the Commission or the state concerned may present the case to the court. If it has not been submitted to the court within three months of the date of transmittal of the report, the Commission may set forth its opinion, conclusions and recommendations.⁶² If the government does not follow those recommendations within a prescribed period, the Commission may publish the report.⁶³ Although the manner of publication is not set forth in the Convention, the new regulations provide that the Commission may publish the report in whatever manner it deems convenient—in the annual report, a special

58. Article 50, New IACHR Regs., *supra* note 7, at 16; see Appendix VI *infra*.

59. Article 50(5), New IACHR Regs., *supra* note 7, at 16; see Appendix VI *infra*.

60. New IACHR Regs., *supra* note 7, at 14-15; see Appendix VI *infra*.

61. Article 23(2), New IACHR Statute, *supra* note 5, at 8; see Appendix V *infra*. Article 41(3), New IACHR Regs., *supra* note 7, at 14; see Appendix VI *infra*.

62. Article 44(2), New IACHR Regs., *supra* note 7, at 15; see Appendix VI *infra*.

63. Article 51, AMERICAN CONVENTION, reprinted in HANDBOOK, *supra* note 1, at

62. Article 45(1), New IACHR Regs., *supra* note 7, at 15; see Appendix VI *infra*.

report, or a broad study.⁶⁴

Again, the complainant should see that time limits are observed, make pertinent recommendations with regard to the submission of the case to the court, and keep the Commission informed whether the government has carried out its recommendations.

CONCLUSION

The new system is progressive in many areas. With regard to states parties, it provides a remedy for human rights violations through the establishment of the Inter-American Court. Though only Costa Rica has recognized the jurisdiction of the court, it is to be expected that others will follow suit over a period of time. The new friendly settlement procedure may also lead to an effective remedy in some cases brought against states parties, and it is likely that friendly settlement will be sought in cases involving non-party states as well. With regard to states parties the fact-finding machinery has been strengthened considerably, though it remains to be seen how this machinery will function in practice. The conditions under which rights may be suspended have been spelled out, the number of rights protected with regard to non-party states has been augmented, and in general, the rights have been better defined. The new prerequisites for the admission of a complaint are not unduly restrictive, and specific provisions have been made for precautionary measures and the on-the-spot investigations of individual cases. At the same time, the burden of proving that domestic remedies have not been exhausted clearly lies with the respondent government. In short, the new statute and regulations of the Inter-American Commission on Human Rights have retained the flexibility of the old system for processing individual complaints, while incorporating the provisions of the American Convention.

Notwithstanding this progress, the effectiveness of the procedures will vary, not only in proportion to the Commission's ability to act, but also in relation to the good faith or the political conditions prevailing in the respondent state. In the typical case, the petitioner may expect an investigation, fact-finding, and resolution that may represent only a moral

64. Article 45(2), New IACHR Regs., *supra* note 7, at 15; see Appendix VI *infra*.

victory. It should be stressed, however, that the purpose of the complaint may not be to obtain a resolution *per se*. Filing the complaint and initiating the fact-finding procedure serves notice to the respondent government of the interest taken by an impartial, intergovernmental body. The possibility of an outside inquiry that may lead to unfavorable publicity encourages a government to reassess its policy or review the actions of its representatives. On occasion, the Commission's inquiries have successfully interrupted or brought an end to torture or have helped to correct failures of due process. In some cases medical treatment has been arranged, political prisoners have been released, or decrees have been revoked. Accordingly, it is hoped that this introduction to the new procedures will aid the petitioner in the preparation of the complaint, and in his assessment of the available remedies and possible impact of initiating the procedure.

APPENDIX I

MEMBER STATES OF THE ORGANIZATION OF AMERICAN STATES*
CHARTER OF THE ORGANIZATION OF AMERICAN STATESSigned at Bogota, April 30, 1948, at the
Ninth International Conference of American States

SIGNATORY COUNTRIES	DATE OF DEPOSIT OF THE INSTRUMENT OF RATIFICATION
Argentina	April 10, 1956
Barbados ¹	November 15, 1967
Bolivia	October 18, 1950 ^a
Brazil	March 13, 1950
Chile	June 5, 1953
Colombia	December 13, 1951
Commonwealth of Dominica ¹	May 22, 1979
Costa Rica	November 16, 1948
Cuba	July 16, 1952
Dominican Republic	April 22, 1949
Ecuador	December 28, 1950
El Salvador	September 11, 1950
Grenada	May 13, 1975 ^a
Guatemala	April 6, 1955 ^a
Haiti	March 28, 1951
Honduras	February 7, 1950
Jamaica ¹	August 20, 1969
Mexico	November 23, 1948
Nicaragua	July 26, 1950
Panama	March 22, 1951
Paraguay	May 3, 1950
Peru	February 12, 1954 ^a
Saint Lucia ¹	May 22, 1979
Suriname ¹	June 8, 1977
Trinidad and Tobago ¹	March 17, 1967
United States	June 19, 1951 ^a
Uruguay	September 1, 1955
Venezuela	December 29, 1951

1. Barbados, the commonwealth of Dominica, Jamaica, Saint Lucia, Suriname, and Trinidad and Tobago signed at the General Secretariat on October 9, 1967, May 22, 1979, June 27, 1969, May 22, 1979, February 22, 1977 and March 13, 1967, respectively.

2. With a declaration.

3. Grenada signed the Charter, as amended by the Protocol of Buenos Aires, on May 13, 1975 at the General Secretariat.

4. With a reservation.

The original instrument is deposited with the General Secretariat which is also the depository of the instruments of ratification.

It entered into force December 13, 1951, when the fourteenth ratification was deposited by Colombia. It was registered with the United Nations on January 16, 1952.

* August 28, 1979 (Document prepared by the Department of Legal Affairs, OAS)

APPENDIX II

STATE PARTIES TO THE AMERICAN CONVENTION*

AMERICAN CONVENTION ON HUMAN RIGHTS

"PACT OF SAN JOSE, COSTA RICA"

Signed at San Jose, November 22, 1969 at the

Inter-American Specialized Conference

SIGNATORY COUNTRIES DATE OF DEPOSIT OF THE INSTRUMENT
OF RATIFICATION OR ADHERENCE

Barbados ¹	
Bolivia ²	July 19, 1979 ^a
Chile ³	
Colombia	July 31, 1973
Costa Rica	April 8, 1970
Dominican Republic ³	April 19, 1978 ^a
Ecuador ³	December 28, 1977
El Salvador ⁵	June 23, 1978 ^a
Grenada ⁶	July 18, 1978
Guatemala	May 25, 1978 ^a
Haiti ³	September 27, 1977 ^a
Honduras	September 8, 1977
Jamaica ⁷	August 7, 1978 ^a
Nicaragua	September 25, 1979
Panama	June 22, 1978
Paraguay	
Peru ⁸	July 28, 1978
United States ⁹	
Uruguay ⁸	
Venezuela	August 9, 1977 ^a

1. Signed at the General Secretariat on June 20, 1978.
2. Adhered.
3. With a declaration.
4. Signed at the General Secretariat on September 27, 1977.
5. With a reservation.
6. Signed at the General Secretariat on July 14, 1978.
7. Signed at the General Secretariat on September 16, 1977.
8. Signed at the General Secretariat on July 27, 1977.
9. Signed at the General Secretariat on June 1, 1977.

The original instrument is deposited with the General Secretariat, which is also the depository of the instruments of ratification.

The Convention entered into force on July 18, 1978, the date on which Grenada deposited its instrument of ratification, constituting the eleventh ratification required by the Convention. With respect to any state that ratifies or adheres thereafter, the Convention will enter into force on the date of the deposit of its instrument of ratification or adherence.

* September 25, 1979 (Document prepared by the Department of Legal Affairs, OAS)

Although the Commission will examine "any petition" that alleges violations of the rights recognized in the American Declaration article 20 of the New IACHR Statute requires the Commission to pay "particular attention" to the rights contained in the articles of the American Declaration referred to above.

Only Articles 22-63, which are discussed in the text, are reproduced in full.

APPENDIX III

RIGHTS CONSECRATED IN THE AMERICAN DECLARATION
OF THE RIGHTS AND DUTIES OF MAN

- Right to life, liberty and personal security (Article I)*
- Right to equality before the law (Article II)*
- Right to religious freedom and worship (Article III)*
- Right to freedom of investigation, opinion, expression and dissemination (Article IV)*
- Right to protection of honor, personal reputation, and private and family life (Article V)
- Right to a family and to the protection thereof (Article VI)
- Right to protection for mothers and children (Article VII)
- Right to residence and movement (Article VIII)
- Right to inviolability of the home (Article IX)
- Right to the inviolability and transmission of correspondence (Article X)
- Right to the preservation of health and to well-being (Article XI)
- Right to education (Article XII)
- Right to the benefits of culture (Article XIII)
- Right to work and to a fair remuneration (Article XIV)
- Right to leisure time and to the use thereof (Article XV)
- Right to social security (Article XVI)
- Right to recognition of juridical personality and of civil rights (Article XVII)
- Right to a fair trial (Article XVIII)*
- Right to nationality (Article XIX)
- Right to vote and participate in government (Article XX)
- Right of assembly (Article XXI)
- Right of association (Article XXII)
- Right to property (Article XXIII)
- Right of petition (Article XXIV)
- Right of protection from arbitrary arrest (Article XXV)*
- Right to due process of law (Article XXVI)*
- Right to seek and receive asylum (Article XXVII)

APPENDIX IV

RIGHTS PROTECTED UNDER THE AMERICAN CONVENTION
ON HUMAN RIGHTS

Right to Juridical Personality (Article 3)
Right to Life (Article 4)
Right to Humane Treatment (Article 5)
Freedom from Slavery (Article 6)
Right to Personal Liberty (Article 7)
Right to a Fair Trial (Article 8)
Freedom from Ex Post Facto Laws (Article 9)
Right to Compensation (Article 10)
Right to Privacy (Article 11)
Freedom of Conscience and Religion (Article 12)
Freedom of Thought and Expression (Article 13)
Right to Reply (Article 14)
Right of Assembly (Article 15)
Freedom of Association (Article 16)
Rights of the Family (Article 17)
Right to a Name (Article 18)
Rights of the Child (Article 19)
Right to Nationality (Article 20)
Right to Property (Article 21)
Freedom of Movement and Residence (Article 22)
Right to Participate in Government (Article 23)
Right to Equal Protection (Article 24)
Right to Judicial Protection (Article 25)

APPENDIX V

STATUTE OF THE INTER-AMERICAN COMMISSION
ON HUMAN RIGHTS

Approved by the General Assembly of the Organization
at its Ninth Regular Session held in La Paz, Bolivia,

October - 1979

(OEA/Ser.P, AG/doc. 1180, October 30, 1979)

I. NATURE AND PURPOSES

Article 1

1. The Inter-American Commission on Human Rights is an organ of the Organization of American States, created to promote the observance and the defense of human rights and to serve as a consultative organ of the Organization in this matter.
2. For the purpose of this Statute, human rights are understood to be:
 - a) Those set forth in the American Convention on Human Rights in relation to the States parties thereto;
 - b) Those set forth in the American Declaration of the Rights and Duties of Man, in relation to the other member states.

II. ORGANIZATION OF THE COMMISSION

Article 2

1. The Inter-American Commission on Human Rights is composed of seven members, who should be persons of high moral character and recognized competence in the field of human rights.
2. The Commission shall represent all the member states of the Organization of American States.

Article 3

1. The members of the Commission shall be elected in a personal capacity by the General Assembly of the Organization from a list of candidates proposed by the governments of the member states.
2. Each of those governments may propose up to three candidates, who may be nationals of the state proposing them or of any other member state of the Organization of American States. When a slate of three is proposed, at least one of the candidates shall be a national of a state other than the proposing state.

Article 4

1. At least six months prior to completion of the terms of office for which the members of the Commission were elected, the Secretary General shall request, in writing, each member state of the Organization to present within 90 days its candidates for membership on the Inter-American Commission on Human Rights.
2. The Secretary General shall prepare a list in alphabetical order of the candidates presented and shall transmit it to the member states of the Organization at least thirty days prior to the next General Assembly.

Article 5

The members of the Commission shall be elected by secret ballot of the General Assembly, from the list of candidates referred to in Article 3 (2). The candidates who obtain the largest number of votes and an absolute majority of the votes of the member states shall be declared elected. Should it become necessary to have several ballots to elect all the members of the Commission, the candidates who receive the lowest number of votes shall be eliminated successively, in the manner determined by the General Assembly.

Article 6

The members of the Commission shall be elected for a term of four years and may be reelected only once.

Article 7

No two nationals of the same state may be members of the Commission.

Article 8

Membership on the Inter-American Commission on Human Rights is incompatible with engaging in other activities which might affect the independence or impartiality of the member.

Article 9

The duties of the members of the Commission are:

1. To attend, except when justifiably prevented, the regular and special meetings held by the Commission at its permanent headquarters or in any other place to which it may have decided to move temporarily.
2. To serve, except when justifiably prevented, on the Special Committees which the Commission may form to conduct on-site observations, or to perform any other duties within their terms of reference.
3. To maintain absolute secrecy about all matters which the Commission deems confidential.
4. To conduct themselves in their public and private life as befits the high moral authority of the office and the importance of the mission entrusted to the Inter-American Commission on Human Rights.

Article 10

1. If a member commits a serious violation of any of the duties referred to in the preceding Article, the Commission, on the affirmative vote of five of its members, shall submit the case to the General Assembly of the Organization of American States, which shall decide whether he should be removed from office.

2. The Commission shall hear the member in question before taking its decision.

Article 11

1. When a vacancy occurs for reasons other than the normal completion of a member's term of office, the Chairman of the Commission shall immediately notify the Secretary General of the Organization of American States, who shall in turn inform the member states of the Organization.

2. In order to fill vacancies on the Commission when they occur, each government may propose a candidate within a period of 30 days from the date of receipt of the Secretary General's communication that a vacancy has occurred.

3. The Secretary General shall prepare an alphabetical list of the candidates thus nominated and shall transmit it to the Permanent Council of the Organization, which shall fill the vacancy.

4. When the term of office is due to expire within six months following the date on which a vacancy occurs, the vacancy shall not be filled.

Article 12

1. In the member states of the Organization that are parties to the American Convention on Human Rights, the members of the Commission shall enjoy, from the time of their election and throughout their term of office, such immunities as are granted to diplomatic agents by international law. While in office, they shall also enjoy the diplomatic privileges required for the performance of their duties.

2. In the member states of the Organization that are not parties to the American Convention on Human Rights, the members of the Commission shall enjoy the privileges and immunities pertaining to their posts required to perform their duties with independence.

3. The system of privileges and immunities of the members of the Commission may be regulated or supplemented by multilateral or bilateral agreements between the OAS and the member states.

Article 13

The members of the Commission shall receive travel allowances, per diem, and

fees, as appropriate, for their participation in the meetings of the Commission or in other functions which the Commission, in accordance with its Regulations, entrusts to them, individually or collectively. Such travel allowances, per diem and fees shall be established in the budget of the Organization and their amounts and conditions shall be determined by the General Assembly.

Article 14

1. The Commission shall have a Chairman, a first Vice Chairman and a second Vice Chairman, who shall be elected by an absolute majority of the members; their terms of office shall be for one year, and they may be re-elected only once in each four year period.

2. The Chairman and the two Vice Chairmen shall be the Directorate of the Commission, whose functions shall be set forth in the Regulations.

Article 15

The Chairman of the Commission may go to the Commission's headquarters and remain there for such time as may be necessary for the performance of his duties.

III. HEADQUARTERS AND MEETINGS

Article 16

1. The permanent headquarters of the Inter-American Commission on Human Rights shall be in Washington, D.C.

2. The Commission may meet and discharge its duties in the territory of any American state when it so decides by an absolute majority of votes, and with the consent, or at the invitation of the government concerned.

3. The Commission shall meet in regular and special session, in conformity with the provisions of the Regulations.

Article 17

1. An absolute majority of the members of the Commission shall constitute a quorum.

2. In regard to the states that are parties to the Convention, decisions shall be taken by an absolute majority vote of the members of the Commission in those cases where this is called for in the American Convention on Human Rights and this Statute. In other cases, an absolute majority of the members present shall be required.

3. In regard to the states that are not parties to the Convention, decisions shall be taken by an absolute majority vote of the members of the Commission, except in the case of matters of procedure, in which case the decisions shall be taken by simple majority.

IV. FUNCTIONS AND POWERS

Article 18

In carrying out its mandate, the Commission shall have the following powers with respect to all the members of the Organization of American States:

- a) to develop an awareness of human rights among the people of the Americas;
- b) to make recommendations to the governments of the states, when it considers such action advisable, for the adoption of progressive measures in favor of human rights within the framework of their domestic laws, their constitutional provisions and their international commitments, as well as appropriate measures to further the observance of those rights;
- c) to prepare such studies or reports as it considers advisable for the performance of its duties;
- d) to request the governments of the states to furnish reports on the measures they adopt in matters of human rights;
- e) to respond, through the General Secretariat of the Organization of American States, to inquiries made by any member states on matters

related to human rights in that state and, within its possibilities, to provide those states with the advisory services they request;

- f) to submit an annual report to the General Assembly of the Organization of American States in which due account shall be taken of the legal system applicable to the States Parties to the American Convention on Human Rights and to those that are not;
- g) to conduct on-site observations in the territory of a state, with the consent, or at the invitation, of the government in question, and
- h) to submit the program-budget of the Commission to the Secretary General, so that he may present it to the General Assembly for consideration.

Article 19

With respect to the States Parties to the American Convention on Human Rights, the Commission shall discharge its duties in conformity with the powers granted under the Convention and in the present Statute, and shall have the following powers in addition to those designated in Article 18:

- a) to act on petitions and other communications, within the limits of its authority, pursuant to the provisions of Article 44 to 51 of the Convention;
- b) to appear before the Inter-American Court of Human Rights in cases provided for in the Convention;
- c) to request the Inter-American Court of Human Rights to take such provisional measures as it considers appropriate in serious and urgent cases which have not yet been submitted to it for consideration, whenever this becomes necessary to prevent irreparable injury to persons;
- d) to consult the Court on the interpretation of the American Convention on Human Rights or of other treaties concerning the protection of human rights in the American States;
- e) to submit additional draft protocols to the American Convention on Human Rights to the General Assembly for consideration, in order progressively, to include other rights and freedoms under the system of protection of the Convention, and
- f) to submit, through the Secretary General, proposed amendments to the American Convention on Human Rights, for such purposes as it deems appropriate.

Article 20

In relation to those member states of the Organization that are not yet parties to the American Convention on Human Rights, the Commission shall have the following powers, in addition to those designated in Article 18:

- a) to pay particular attention to the observance of the human rights referred to in Articles I, II, III, IV, XVIII, XXV, and XXVI of the American Declaration of the Rights and Duties of Man;
- b) to examine communications submitted to it and any other available information, to address the government of any American state for information deemed pertinent by this Commission, and to make recommendations, when it deems this appropriate, in order to bring about more effective observance of fundamental human rights, and
- c) to verify, as a condition precedent to the exercise of the powers granted under the previous subparagraph, whether the domestic legal procedures and remedies of each member state have been duly applied and exhausted.

V. SECRETARIAT

Article 21

1. The specialized functional unit furnishing secretariat services to the Commission shall be under the direction of an Executive Secretary. This unit shall be provided with the resources and staff required to accomplish the tasks assigned to it by the Commission.

2. The Executive Secretary, who shall be a person of high moral character and recognized competence in the field of human rights, shall be responsible for the work of the Secretariat and shall assist the Commission in the performance of its duties, in accordance with the norms set forth in the Regulations.

3. The Executive Secretary of the Commission shall be appointed by the Secretary General of the Organization, in consultation with the Commission. Furthermore, for the Secretary General to be able to remove the Executive Secretary from his post, he shall consult with the Commission and inform its members of the reasons for his decision.

VI. STATUTE AND REGULATIONS

Article 22

1. The present Statute may be amended by the General Assembly.

2. The Commission shall prepare and adopt its own Regulations, in accordance with the provisions of this Statute.

Article 23

1. In accordance with the provisions of Articles 44 to 51 of the American Convention on Human Rights, the Regulations of the Commission shall govern the procedure to be followed in cases of petitions or communications alleging violation of any of the rights guaranteed by the Convention, and in which such violation is imputed to any State Party to the Convention.

2. If the friendly settlement referred to in these articles of the Convention is not reached, the Commission shall draft, within 180 days, the report required by Article 50 of the Convention.

Article 24

° 1. The Regulations shall also provide for the procedure to be followed in cases of communications which contain accusations or complaints of violation of human rights imputable to states that are not parties to the American Convention on Human Rights.

2. The Regulations shall contain, for this purpose, the pertinent norms established in the Statute of the Commission approved by the Council of the Organization at its meetings held on May 25 and June 8, 1960, with the modifications and amendments introduced by Resolution XXII of the Second Special Inter-American Conference, and by the Council of the Organization at its meeting held on April 24, 1968, taking into account resolution CP/RES. 253 (343/78), "Transition from the present Inter-American Commission on Human Rights to the Commission provided for in the American Convention on Human Rights", adopted by the Permanent Council of the Organization on September 20, 1978.

VII. TRANSITORY PROVISIONS

Article 25

Until such time as the Commission adopts its new Regulations, the current Regulation (OEA/Ser.L/VII. 17 doc. 26 of May 2, 1967) shall apply with respect to all the states of the Organization.

APPENDIX VI

REGULATIONS OF THE
INTER-AMERICAN COMMISSION ON HUMAN RIGHTS

Approved by the Commission at its 660a. session
held on April 8, 1980

(OEA/Ser.L/V/11.49, doc. 6, rev. 4, April 8, 1980)

TITLE II. PROCEDURES

Chapter I. General Provisions

Article 22 (Official Languages)

1. The official languages of the Commission shall be Spanish, French, English and Portuguese. The working languages shall be those decided on by the Commission every two years, in accordance with the languages spoken by its members.

2. A member of the Commission may allow omission of the interpretation of debates and the preparation of documents in his language.

Article 23 (Presentation of Petitions)

1. Any person or group of persons or nongovernmental entity legally recognized in one or more of the member states of the Organization may submit petitions to the Commission, in accordance with these Regulations, on his own behalf or on behalf of third persons, with regard to alleged violations of a human right recognized, as the case may be, in the American Convention on Human Rights or in the American Convention on Human Rights or in the American Declaration of the Rights and Duties of Man.

2. The Commission may also, *motu proprio*, take into consideration any available information that it considers pertinent and which might include the necessary factors to begin processing a case which in its opinion fulfills the requirements for that purpose.

Article 24 (Form)

1. The petition shall be lodged in writing.

2. The petitioner may appoint in the petition itself, or in another written petition, an attorney or other person to represent him before the Commission.

Article 25 (Special Missions)

The Commission may designate one or more of its members or staff members of the Secretariat to take specific measures, investigate facts or make the necessary arrangements for the Commission to perform its functions.

Article 26 (Precautionary Measures)

1. The Commission may, at its own initiative, or at the request of a party, take any action it considers necessary for the discharge of its functions.

2. In urgent cases, the Commission may request that provisional measures be taken to avoid irreparable damage where the denounced facts are true.

3. If the Commission is not in session, the Chairman, or in his absence, one of the Vice Chairmen, shall consult with the other members, through the Secretariat, on implementation of the provisions of paragraphs 1 and 2 above. If it is not possible to consult within a reasonable time, the Chairman shall take the decision on behalf of the Commission and shall so inform its members immediately.

4. The request for such measures and their adoption shall not prejudice the final decision.

Article 27 (Initial Processing)

1. The Secretariat of the Commission shall be responsible for the study and initial processing of petitions lodged before the Commission and that fulfill all the requirements set forth in the Statutes and in these Regulations.

2. If a petition or communication does not meet the requirements called for in these Regulations, the Secretariat of the Commission may request the petitioner or his representative to complete it.

3. If the Secretariat has any doubt as to the admissibility of a petition, he shall submit it for consideration to the Commission or to the Chairman during recesses of the Commission.

Chapter II. Petitions and Communications Regarding States Parties to the American Convention on Human Rights

Article 28 (Condition for Considering the Petition)

The Commission shall take into account petitions regarding alleged violations by a state party of human rights defined in the American Convention on Human Rights, only when they fulfill the requirements set forth in that Convention, in the Statute and in these Regulations.

Article 29 (Requirements for the Petitions)

Petitions addressed to the Commission shall include:

- a. The name, nationality, profession or occupation, postal address, or domicile and signature of the person or persons making the denunciation; or in cases where the petitioner is a nongovernmental entity, its legal domicile or postal address, and the name and signature of its legal representative or representatives;
- b. An account of the act or situation that is denounced, specifying the place and date of the alleged violations and, if possible, the name of the victim of such violations as well as that of any official that might have been apprised of the act or situation that was denounced;
- c. An indication of the state in question which the petitioner considers responsible, by commission or omission, for the violation of a human right recognized in the American Convention on Human Rights in the case of states parties thereto, even if no specific reference is made to the article alleged to have been violated;
- d. Information on whether the remedies under domestic law have been exhausted or whether it has been impossible to do so.

Article 30 (Omission of Requirements)

Without prejudice to the provisions of Article 26, if the Commission considers that the petition is inadmissible or incomplete, it shall notify the petitioner and ask him to complete the requirements omitted in the petition.

Article 31 (Initial Processing)

1. The Commission, acting initially through its Secretariat, shall receive and process petitions lodged with it in accordance with the standards set forth below:

- a. It shall enter the petition in a register specially prepared for that purpose, and the date on which it was received shall be marked on the petition or communication itself;
- b. It shall acknowledge receipt of the petition to the petitioner, indicating that it will be considered in accordance with the Regulations;
- c. If it accepts, in principle, the admissibility of the petition, it shall request information from the government of the state in question and include the pertinent parts of the petition.

2. In serious or urgent cases or when it is believed that the life, personal integrity

or health of a person is in imminent danger, the Commission shall request the promptest reply from the government, using for this purpose the means it considers most expeditious.

3. The request for information shall not constitute a prejudgment with regard to the decision the Commission may finally adopt on the admissibility of the petition.

4. In transmitting the pertinent parts of a communication to the government of the state in question, the identity of the petitioner shall be withheld, as shall any other information that could identify him, except when the petitioner expressly authorizes in writing the disclosure of his identity.

5. The information requested must be provided as quickly as possible, within 120 days after the date on which the request is sent.

6. The government of the state in question may, with justifiable cause, request a 30 day extension, but in no case shall extensions be granted for more than 180 days after the date on which the first communication is sent to the government of the state concerned.

7. The pertinent parts of the reply and the documents provided by the government shall be made known to the petitioner or to his representative, who shall be asked to submit his observations and any available evidence to the contrary within 30 days.

8. On receipt of the information or documents requested, the pertinent parts shall be transmitted to the government, which shall be allowed to submit its final observations within 30 days.

Article 32 (Preliminary Questions)

The Commission shall proceed to examine the case and decide on the following matters:

- a. Whether the remedies under domestic law have been exhausted, and it may determine any measures it considers necessary to clarify any remaining doubts;
- b. Other questions related to the admissibility of the petition or its manifest inadmissibility based upon the record or submission of the parties;
- c. Whether grounds for the petition exist or subsist, and if not, to order the file closed.

Article 33 (Examination by the Commission)

The record shall be submitted by the Secretariat to the Commission for consideration at the first session held after the period referred to in Article 31, paragraph 5, if the government has not provided the information on that occasion, or after the periods indicated in paragraphs 7 and 8 have elapsed if the petitioner has not replied or if the government has not submitted its final observations.

Article 34 (Exhausting Domestic Remedies)

1. For a petition to be admitted by the Commission, the remedies under domestic jurisdiction must have been invoked and exhausted in accordance with the general principles of international law.

2. The provisions of the preceding paragraph shall not be applicable when:

- a. The domestic legislation of the state concerned does not afford due process of law for protection of the right or rights that have allegedly been violated;
- b. The party alleging violation of his rights has been denied access to the remedies under domestic law or has been prevented from exhausting them;
- c. There has been unwarranted delay in rendering a final judgment under the aforementioned remedies.

3. When the petitioner contends that he is unable to prove exhaustion as indicated in this article, it shall be up to the government against which the petition has

been lodged to demonstrate to the Commission that the remedies under domestic law have not previously been exhausted, unless it is clearly evident from the background information contained in the petition.

Article 35 (Deadline for the Presentation of Petitions)

1. The Commission shall refrain from taking up those petitions that are lodged after the six-month period following the date on which the party whose rights have allegedly been violated has been notified of the final ruling in cases where the remedies under domestic law have been exhausted.

2. In the circumstances set forth in Article 34 paragraph (2) of these Regulations, the deadline for presentation of a petition to the Commission shall be within a reasonable period of time, in the Commission's judgment, as from the date on which the alleged violation of rights has occurred, considering the circumstances of each specific case.

Article 36 (Duplication of Procedures)

1. The Commission shall not consider a petition in cases where the subject of the petition:

- a. Is pending settlement in another procedure under an international governmental organization of which the state concerned is a member;
- b. Essentially duplicates a petition pending or already examined and settled by the Commission or by another international government organization of which the state concerned is a member.

2. The Commission shall not refrain from taking up and examining a petition in cases provided for in paragraph 1 when:

- a. The procedure followed before the other organization or agency is one limited to an examination of the general situation on human rights in the state in question and there has been no decision on specific facts that are the subject of the petition submitted to the Commission, or is one that will not lead to an effective settlement of the violation denounced;
- b. The petitioner before the Commission or a family member is the alleged victim of the violation denounced and the petitioner before the organizations in reference is a third party or a nongovernmental entity having no mandate from the former.

Article 37 (Separation and Combination of Cases)

1. Any petition that states different facts that concern more than one person, and that could constitute various violations that are unrelated in time and place shall be separated and processed as separate cases, provided the requirements set forth in Article 29 are met.

2. When two petitions deal with the same facts and persons, they shall be combined and processed in a single file.

Article 38 (Declaration of Inadmissibility)

The Commission shall declare inadmissible any petition when:

- a. Any of the requirements set forth in Article 29 of these Regulations has not been met;
- b. When the petition does not state facts that constitute a violation of rights referred to in Article 28 of these Regulations in the case of states parties to the American Convention on Human Rights;
- c. The petition is manifestly groundless or inadmissible on the basis of the statement by the petitioner himself or the government.

Article 39 (Presumption)

The facts reported in the petition whose pertinent parts have been transmitted to the government of the state in reference shall be presumed to be true if, during the maximum period set by the Commission under the provisions of Article 31 paragraph 5, the government has not provided the pertinent information, as long as other evidence does not lead to a different conclusion.

Article 40 (Hearing)

1. If the file has not been closed and in order to verify the facts, the Commission may conduct a hearing following a summons to the parties and proceed to examine the matter set forth in the petition.

2. At that hearing, the Commission may request any pertinent information from the representative of the state in question and shall receive, if so requested, oral or written statements presented by the parties concerned.

Article 41 (On-site Investigation)

1. If necessary and advisable, the Commission shall carry out an on-site investigation, for the effective conduct of which it shall request, and the states concerned shall furnish to it, all necessary facilities.

2. However, in serious and urgent cases, only the presentation of a petition or communication that fulfills all the formal requirements of admissibility shall be necessary in order for the Commission to conduct an on-site investigation with the prior consent of the state in whose territory a violation has allegedly been committed.

3. Once the investigatory stage has been completed, the case shall be brought for a consideration before the Commission, which shall prepare its decision in a period of 180 days.

Article 42 (Friendly Settlement)

1. At the request of any of the parties, or on its own initiative, the Commission shall place itself at the disposal of the parties concerned, at any stage of the examination of a petition, with a view to reaching a friendly settlement of the matter on the basis of respect for the human rights recognized in the American Convention on Human Rights.

2. If a friendly settlement is reached, the Commission shall prepare a report which shall be transmitted to the parties concerned and referred to the Secretary General of the Organization of American States for publication. This report shall contain a brief statement of the facts and of the solution reached. If any party in the case so requests, it shall be provided with the fullest possible information.

Article 43 (Preparation of the Report)

1. If a friendly settlement is not reached, the Commission shall examine the evidence provided by the government in question and the petitioner, evidence taken from witnesses to the facts or that obtained from documents, records, official publications, or through an on-site investigation.

2. After the evidence has been examined, the Commission shall prepare a report stating the facts and conclusions regarding the case submitted to it for its study.

Article 44 (Proposals and Recommendations)

1. In transmitting the report, the Commission may make such proposals and recommendations as it sees fit.

2. If, within a period of three months from the date of the transmittal of the report of the Commission to the states concerned, the matter has not been settled or submitted by the Commission or by the state concerned to the Court and its jurisdiction accepted, the Commission may, by the vote of an absolute majority of its members, set forth its opinion and conclusions concerning the question submitted for its consideration.

3. The Commission may make the pertinent recommendations and prescribe a period within which the government in question must take the measures that are

incumbent upon it to remedy the situation examined.

4. If the report does not represent in its entirety or in part the unanimous opinion of the members of the Commission, any member may add his opinion separately to that report.

5. Any verbal or written statement made by the parties shall also be included in the report.

6. The report shall be transmitted to the parties concerned, who shall not be authorized to publish it.

Article 45 (Publication of the Report)

1. When the prescribed period has expired, the Commission shall decide by the vote of an absolute majority of its members whether the state has taken suitable measures and whether to publish its report.

2. That report may be published by including it in the annual report to be presented by the Commission to the General Assembly of the Organization or in any other way the Commission may consider suitable.

Article 46 (Communications from a Government)

1. Communications presented by the government of a state party to the American Convention on Human Rights which has accepted the competence of the Commission to receive and examine such communications against other states parties shall be transmitted to the state party in question whether or not it has accepted the competence of the Commission. When it has not accepted such competence, the communication shall be transmitted so that the state can exercise its opinion under the provisions of Article 45(3) of the Convention to recognize that competence in the specific case that is the subject of the communication.

2. Once the state in question has accepted the competence of the Commission to take up the communication of the other state party, the corresponding procedure shall be governed by the provisions of Chapter II insofar as they may be applicable.

Article 47 (Referral of the Case to the Court)

1. If a state party to the Convention has accepted the Court's jurisdiction in accordance with Article 62 of the Convention, the Commission may refer the case to the Court subsequent to transmittal to the government of the state in question of the report referred to in Article 43 of these Regulations.

2. When it is ruled that the case is to be referred to the Court, the Executive Secretary of the Commission shall immediately notify the Court, the petitioner and the government of the state in question.

3. If the state party has not accepted the Court's jurisdiction, the Commission may call upon that state to make use of the option referred to in Article 62, paragraph 2 of the Convention to recognize the Court's jurisdiction in the specific case that is the subject of the report.

Chapter III: Petitions Concerning States that are not Parties to the American Convention on Human Rights

Article 48 (Receipt of the Petition)

The Commission shall receive and examine any petition that contains a denunciation of alleged violations of human rights recognized in the American Declaration on the Rights and Duties of Man, concerning the member states of the Organization that are not parties to the American Convention on Human Rights.

Article 49 (Applicable Procedure)

The procedure applicable to petitions concerning member states of the Organization that are not parties to the American Convention on Human Rights shall be that provided for in the General Provisions included in Chapter I of Title II, in Articles 29 to 40 of these Regulations, and in the articles indicated below.

Article 50 (Final Decision)

1. In addition to the facts and conclusions, the Commission's final decision shall include any recommendations the Commission deems advisable and a deadline for their implementation.

2. That decision shall be transmitted to the petitioner and to the state in question.

3. When the state in question, prior to expiration of the deadline set forth in paragraph 1, requests reconsideration of the conclusions or recommendations in the Commission's report on the basis of new facts or arguments, the Commission, after hearing the petitioner, shall decide to stand by or amend its decision setting a new deadline for its implementation if appropriate.

4. If the state does not adopt the measures recommended by the Commission within the deadline referred to in paragraph 1 or 3, the Commission may publish its decision.

5. The decision referred to in the preceding paragraph may be published in the Annual Report to be presented by the Commission to the General Assembly of the Organization or in any other manner the Commission may see fit.

Chapter IV. On-site ObservationsArticle 51 (Designation of the Special Commission)

On-site observations shall be carried out in each case by a special commission named for that purpose. The number of members of the Special Commission and the designation of its chairman shall be determined by the Commission. In cases of great urgency, such decisions may be made by the chairman subject to the approval of the Commission.

Article 52 (Disqualification)

A member of the Commission who is a national of or who resides in the territory of the state in which the on-site observation is to be carried out shall be disqualified from participating therein.

Article 53 (Schedule of Activities)

The Special Commission shall organize its own activities. To that end, it may appoint its own members and, after hearing the Executive Secretary, any staff members of the Secretariat or personnel necessary to carry out any activity related to its mission.

Article 54 (Necessary Facilities)

In extending an invitation for an on-site observation or in giving its consent, the government shall furnish to the Special Commission all necessary facilities for carrying out its mission. In particular, it shall bind itself not to take any reprisals of any kind against any persons or entities cooperating with the Special Commission or providing information or testimony.

Article 55 (Other Applicable Standards)

Without prejudice to the provisions in the preceding article, any on-site observation agreed upon by the Commission shall be carried out in accordance with the following standards:

- a. The Special Commission or any of its members shall be able to interview freely and in private, any persons, groups, entities or institutions, and the government shall grant the pertinent guarantees to all those who provide the Commission with information, testimony or evidence of any kind;
- b. The members of the Special Commission shall be able to travel freely throughout the territory of the country, for which purpose the government shall extend all the corresponding facilities, including the necessary documentation;

- c. The government shall ensure the availability of local means of transportation;
- d. The members of the Special Commission shall have access to the jails and all other detention and interrogation centers and shall be able to interview in private those persons imprisoned or detained;
- e. The government shall provide the Special Commission with any document related to the observance of human rights that it may consider necessary for the preparation of its report;
- f. The Special Commission shall be able to use any method appropriate for collecting, recording or reproducing the information it considers useful;
- g. The government shall adopt the security measures necessary to protect the Special Commission;
- h. The government shall ensure the availability of appropriate lodging for the members of the Special Commission;
- i. The same guarantees and facilities that are set forth here for the members of the Special Commission shall also be extended to the Secretariat staff;
- j. Any expenses incurred by the special committee, any of its members and the Secretariat staff shall be borne by the Organization, subject to the pertinent provisions.

Chapter V. General and Special Reports

Article 56 (Preparation of Draft Report)

The Commission shall prepare the general or special draft reports that it considers necessary.

Article 57 (Processing and Publication)

1. The reports prepared by the Commission shall be transmitted as soon as possible through the General Secretariat of the Organization to the government or pertinent organs of the Organization.

2. Upon adoption of a report by the Commission, the Secretariat shall publish it in the manner determined by the Commission in each instance, except as provided for in Article 44, paragraph 6, of these Regulations.

Article 58 (Report on Human Rights in a State)

The preparation of reports on the status of human rights in a specific state shall meet the following standards:

- a. After the draft report has been approved by the Commission, it shall be transmitted to the government of the member state in question so that it may make any observations it deems pertinent;
- b. The Commission shall indicate to that government the deadline for presentation of its observations;
- c. When the Commission receives the observations from the government, it shall study them and, in light thereof, may uphold its report or change it and decide how it is to be published;
- d. If no observation has been submitted on expiration of the deadline by the government, the Commission shall publish the report in the manner it deems suitable.

Article 59 (Annual Report)

The Annual Report presented by the Commission to the General Assembly of the Organization shall include the following:

- a. A brief account of the origin, legal basis, structure and purposes of the Commission as well as the status of the American

Convention;

- b. A summary of the mandates and recommendations conferred upon the Commission by the General Assembly and the other competent organs, and of the status of implementation of such mandates and recommendations;
- c. A list of the meetings held during the period covered by the report and of other activities carried out by the Commission to achieve its purposes, objectives, and mandates;
- d. A summary of the activities of the Commission carried out in cooperation with other organs of the Organization and with regional or world organizations of the same type, and the result achieved through these activities;
- e. A statement on the progress made in attaining the objectives set forth in the American Declaration of the Rights and Duties of Man and the American Convention on Human Rights;
- f. A report on the areas in which measures should be taken to improve observance of human rights in accordance with the aforementioned Declaration and Convention;
- g. Any observations that the Commission considers pertinent with respect to petitions it has received, including those processed in accordance with the statute and these regulations which the Commission decides to publish as reports, resolutions, or recommendations;
- h. Any general or special report that the Commission considers necessary with regard to the situation of human rights in the member states, noting in such reports the progress achieved and difficulties that have arisen in the effective observance of human rights;
- i. Any other information, observation, or recommendation that the Commission considers advisable to submit to the General Assembly and any new program that implies additional expense.

Article 60 (Economic, Social and Cultural Rights)

1. The states parties shall forward to the Commission copies of the reports and studies referred to in Article 42 of the American Convention on Human Rights on the same date on which they submit them to the pertinent organs.

2. The Commission may request annual reports from the other member states regarding the economic, social, and cultural rights recognized in the American Declaration of the Rights and Duties of Man.

3. Any person, group of persons, or organization may present reports, studies or other information to the Commission on the situation of such rights in all or any of the member states.

4. If the Commission does not receive the information referred to in the preceding paragraphs or considers it inadequate, it may send questionnaires to all or any of the member states, setting a deadline for the reply or it may turn to other available sources of information.

5. Periodically, the Commission may entrust to experts or specialized entities studies on the situation of one or more of the aforementioned rights in a specific country or group of countries.

6. The Commission shall make the pertinent observations and recommendations on the situation of such rights in all or any of the member states and shall include them in the Annual Report to the General Assembly or in a Special Report, as it considers most appropriate.

7. The recommendations may include the need for economic aid or some other

form of cooperation to be provided among the member states, as called for in the Charter of the Organization and in other agreements of the inter-American system.

Chapter VI. (Hearings before the Commission)

Article 61 (Decision to Hold Hearing)

On its own initiative, or at the request of the person concerned, the Commission may decide to hold hearings on matters defined by the statute as within its jurisdiction.

Article 62 (Conduct of the Hearing)

1. The Chairman or the member of the Commission designated by him shall preside over the hearing and interrogation of persons appearing before it. Any member may take part in the questioning or make observations, with the authorization of the presiding officer.

2. At a hearing on a petition, parties appearing may also question persons who have been summoned.

Article 63 (Attendance at the Hearing)

1. Hearings convoked with the specific purpose of examining a petition shall be held in private, in the presence of the parties and their representatives if they are present, unless they agree that the hearing should be public.

2. In other cases, the Commission shall decide on the presence of other interested parties and of the general public.